



**NEW YORK STATE COMMISSION  
ON CABLE TELEVISION**

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*Commissioner*  
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*Executive Director*

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February 12, 1993 **RECEIVED**

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**FCC MAIL ROOM**

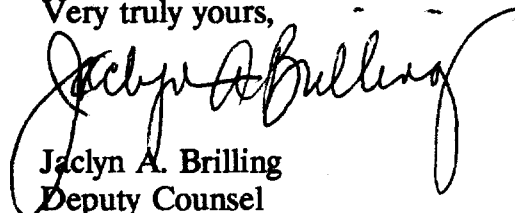
Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, DC 20554

Re: MM Docket No. 92-261

Dear Ms. Searcy:

I am enclosing herewith an original and nine copies of comments submitted by the New York State Commission on Cable Television in the above-referenced proceeding.

Very truly yours,

  
Jaclyn A. Brillling  
Deputy Counsel

Encs.

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A B C D E

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections of the  
Cable Television Consumer Protection  
and Competition Act of 1992

Equal Employment Opportunities

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MM Docket No. 92-261

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**COMMENTS OF THE NEW YORK STATE  
COMMISSION ON CABLE TELEVISION FCC MAIL ROOM**

New York State Commission  
on Cable Television  
Corning Tower Bldg.  
Empire State Plaza  
Albany, New York 12223  
(518) 474-4992

Dated: Albany, New York  
February 12, 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Implementation of Sections of the Cable Television )  
Consumer Protection and Competition Act of 1992 )  
Equal Employment Opportunities )

MM Docket No. 92-261

COMMENTS OF THE NEW YORK STATE  
COMMISSION ON CABLE TELEVISION

1. The New York State Commission on Cable Television ("NYSCCT") respectfully submits initial comments in response to the Notice of Proposed Rulemaking ("NPRM") released in this docket on January 5, 1993. NYSCCT is an independent Commission with broad authority to promote and oversee the development of the cable television industry in the State of New York. NYSCCT is expressly authorized by Section 815(6) of the Executive Law of the State of New York to represent the interests of the people of the State before the Federal Communications Commission ("Commission").

2. The NYSCCT applauds the actions of Congress in addressing equal employment opportunities ("EEO") in the 1992 Act and the Commission's effort in the proposed expansion of existing EEO regulations. The NPRM indicates that the Commission will take action to certify or decertify cable operators based upon compliance with these requirements. Likewise, the NYSCCT will not grant or renew a franchise unless the franchise contains a provision affirming the franchisee's commitment to equal employment opportunity (9 NYCRR 595.1(k)). We support all efforts to promote the recruitment and

hiring of qualified minorities and women and urge the Commission to continue its oversight of this important issue.

3. In general, we support the need for more detail and an expansion of the categories and definitions of employment which form the basis of the EEO reporting by cable companies to the Commission. We find, however, that the definitions of the various categories shown in Appendix H may not help the Commission to fulfill this important task. In particular, the category "Professionals" appears overly broad and not particularly helpful in defining the term. Rather, it appears to be a "catch-all" provision which could be used inaccurately by operators in their reports to the Commission and would be of little assistance to the Commission in its enforcement of these regulations. The NYSCCT recommends that the Commission distinguish between licensed and unlicensed professionals. Other categories also lack clarity: (1) The term "corporate officers" references employees acting in a "fiduciary capacity," a characteristic which surely transcends this category. Likewise, there is no definition of, or reference to, the level of responsibility or authority of one in this position; (2) similarly, the term "manager" is defined without reference to the hiring or firing authority which one would possess as a manager. In sum, we do not believe that these broad definitions are sufficient to ensure that employees are accurately categorized.

4. The review and enforcement practices discussed in the NPRM are encouraging. We do not understand, however, how the increased reporting requirements and "on site reviews" as proposed will actually be implemented to assure compliance with and promote the goals of EEO. Specifically, it is not clear in the NPRM how on site reviews will be conducted and compliance recommendations will be implemented.

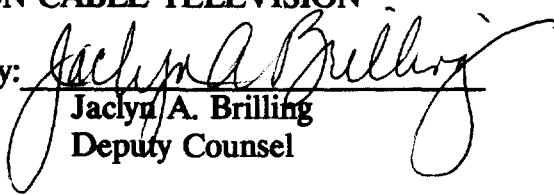
5. Further regarding implementation of recommendations, the NPRM suggests that "adjudicated findings of discrimination" will result in denial of certification. Mere "unresolved complaints," however, will be the basis for denial (NPRM, Para. 4, Footnote 14). This footnote is troubling in two respects: (1) the forum for, or outcome of, adjudication is not specified (administrative or judicial; decree or settlement); (2) the length of time required for adjudication of these complaints, depending upon the forum, can be staggering and this factor alone may operate to discourage verifiable complainants. While we recognize that every complaint rests on the particular facts presented, we are nonetheless concerned that the labeling of a complaint as "unresolved" may create a perception of regularity where, in fact, a pattern of discrimination or general non-compliance exists.

6. We wish to make clear in these comments that the goal of the Commission in enforcing existing and proposed regulations is to promote and encourage representation of minorities and women in managerial and supervisory positions within the cable industry. The Commission's goal is not to be punitive. Review, evaluation and on site inspection are methods which should be employed more to encourage the industry to adopt equal employment opportunity practices than to penalize the industry for failures in this effort.

Respectfully submitted,

NEW YORK STATE COMMISSION  
ON CABLE TELEVISION

By:

  
Jaclyn A. Brillling  
Deputy Counsel

Dated: February 12, 1993